

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Jaimiah Irby,

Civil No. 15-cv-1997 (PJS/TNL)

Petitioner,

v.

ORDER

Michelle Smith, *Warden*,

Respondent.

Jaimiah Irby, #206229, MCF- Stillwater, 970 Pickett Street North, Bayport, MN 55003 (pro se Petitioner);

Jean E. Burdorf, Hennepin County Attorney's Office, 300 South Sixth Street, Suite A-2000, Minneapolis, MN 55487; Matthew Frank and James B. Early, Minnesota Attorney General's Office, 445 Minnesota Street, Suite 1800, St. Paul, MN 55101 (for Respondent).

Based upon the Report and Recommendation by United States Magistrate Judge Tony N. Leung dated January 27, 2016 (ECF No. 16), along with all the files and records, and no objections to said Recommendation having been filed, **IT IS HEREBY ORDERED** that:

1. The Amended Petition for Writ of Habeas Corpus for Person in State Custody (ECF No. 7) is **DISMISSED WITH PREJUDICE**.
2. Petitioner's Motion for Appointment of Counsel (ECF Nos. 2, 14) are **DENIED**.
3. Petitioner should **NOT** be granted a Certificate of Appealability.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Date: February 23, 2016

s/Patrick J. Schiltz

The Honorable Patrick J. Schiltz
United States District Court Judge
for the District of Minnesota